



International Bureau

Federal Communications Commission
Washington, DC 20554

DA 04-4071

December 30, 2004

Mr. William M. Wiltshire
Harris, Wiltshire & Grannis, LLP
1200 Eighteenth Street, N.W.
Washington, DC 20036

Re: The DIRECTV Group, Inc., Application File Nos. SAT-LOA-
20040909-00168 and SAT-AMD-20041119-00209 (Call Sign S2640);
SAT-LOA-20040909-00169 and SAT-AMD-20041122-00210 (Call
Sign S2641)

Dear Mr. Wiltshire:

This letter refers to the above-referenced applications, filed by The DIRECTV Group, Inc. (DIRECTV), to launch and operate two geostationary orbit (GSO) fixed satellites in the Ka-band. The applications, as amended, seek authority to launch and operate the DIRECTV 10 (S2641) and DIRECTV 11 (S2640) satellites at the 102.8° W.L. and 99.2° W.L. orbit locations, respectively. The satellites are to be co-located with DIRECTV's authorized but unlaunched Spaceway 1 and Spaceway 2 satellites. As set forth below, we dismiss those portions of the DIRECTV applications that involve frequency bands that have not been previously authorized for the Spaceway 1 and 2 satellites, without prejudice to refiling, as premature.

DIRECTV has authority to launch and operate its Spaceway 1 satellite at the 103.05° W.L. orbit location and its Spaceway 2 at the 99.05° W.L. orbit location. Each satellite was originally licensed to operate on 1000 megahertz of Ka-band spectrum in each transmission direction.¹ In June 2004, DIRECTV filed applications to modify these licenses to update both satellites' system design to reflect, among other things, its intention to operate on only 830 megahertz of bandwidth in each transmission direction.² The International Bureau granted these modification applications, noting that each grant amounted "to an overall reduction of 340 megahertz in bandwidth from what the Commission previously authorized for Hughes's Ka-band service links."³ Specifically, we authorized DIRECTV to operate the

¹ We originally licensed the satellite at 99° W.L. to Hughes Communications, Galaxy, Inc. and the satellite at 103° W.L. to PanAmSat Licensee Corp. Hughes Communications, Galaxy, Inc., *Order and Authorization*, 13 FCC Rcd 1351 (Int'l Bur. 1997); PanAmSat Licensee Corp., *Order and Authorization*, 13 FCC Rcd 1405 (Int'l Bur. 1997), as modified in Assignment of Orbital Locations to Space Stations in the Ka-band, Order, 12 FCC Rcd 22004 (Int'l Bur. 1997). As a result of a merger between Hughes and PanAmSat, Hughes acquired the PanAmSat satellite. See Hughes Communications, Inc. and Affiliated Companies, *Order and Authorization*, 12 FCC Rcd 7534 (1997). Last year, the Commission approved assignment of the Hughes licenses to DIRECTV, which is controlled by The News Corp. Ltd. See General Motors Corp., *Memorandum Opinion and Order*, 19 FCC Rcd 473 (2004).

² File Nos. SAT-MOD-20040614-00114 (relating to Spaceway 1) and SAT-MOD-20040614-00113 (relating to Spaceway 2).

³ File Nos. SAT-MOD-20040614-00114 and SAT-MOD-20040614-00113 (grant stamped with conditions by Satellite Engineering Branch, Satellite Division on Nov. 4, 2004), note 2; see also, Satellite Communication Services Information Re: Actions Taken, *Public Notice*, Report No. SAT-00256, DA 04-3529 (rel. Nov. 5, 2004).

two Spaceway satellites in the 18.365-18.53/18.57-18.735/19.7-20.2 GHz downlink bands and the 28.36-28.525/29.26-29.425/29.5-30.0 GHz uplink bands. DIRECTV has a pending request for authority to move Spaceway 1 to 102.8° W.L. and Spaceway 2 to 99.2° W.L..⁴

In September 2004, DIRECTV filed its applications for DIRECTV 10 and DIRECTV 11, which it stated were "partial replacements" for Spaceway-2 and Spaceway-1, respectively. DIRECTV requested authority to operate each of the DIRECTV satellites in the 18.3-18.8 GHz downlink and the 28.35-28.6/29.25-29.5 GHz uplink bands. It originally applied for authority to operate DIRECTV 10 at 103° W.L. and DIRECTV 11 at 103° W.L. but later amended these applications to request the 102.8° W.L. and 99.2° W.L. orbit locations, respectively.

Under the Commission's first-come first-served procedure in place for satellites operating in geostationary-like satellite orbits (GSO), such as the proposed DIRECTV satellites, the Commission places applications for new satellites at new orbit locations in a processing "queue" in the order in which they are filed.⁵ If an applicant's proposed satellite will not cause harmful interference to a licensed satellite or one ahead of it in the processing queue and the applicant is otherwise qualified, the Commission will grant the application.

In contrast, when an applicant requests authority to operate a "replacement" satellite, the Commission considers that request immediately without placing it in the processing queue.⁶ The Commission's rules define a "replacement" satellite as one that is authorized to operate at the same orbit location, in the same frequency bands, and with the same coverage area as one of the licensees existing satellites and will be brought to use at "approximately the same time as...the existing satellite is retired."⁷

DIRECTV requests authority to operate the DIRECTV satellites on frequency bands that are no longer authorized to the Spaceway satellites. These are the 18.3-18.365/18.53-18.57/18.735-18.8/28.35-28.36/28.525-28.6/29.25-29.26/29.425-29.5 GHz bands -- that is, the 340 megahertz of spectrum that DIRECTV surrendered when it requested authority to modify the Spaceway licenses. When previously assigned orbit-spectrum resources are surrendered, we consider the surrendered orbit-spectrum resources "available" for reassignment only upon release of a public notice announcing the surrender. This is to provide all parties potentially interested in providing satellite service from the surrendered orbit location and frequency bands an equal opportunity to apply for the license and to obtain "first-in-line" status in the processing queue.⁸ We have not yet issued such a public notice. Consequently, DIRECTV's requests for

⁴ Application File Nos. SAT-MOD-20041122-00211 (Spaceway 1) and SAT-MOD-20041122-00212 (Spaceway 2).

⁵ Amendment of the Commission's Space Station Licensing Rules and Policies, *First Report and Order and Further Notice of Proposed Rulemaking*, IB Docket No. 02-34, 18 FCC Rcd 10760, 10805 (para. 109) (2003) (*First Space Station Reform Order*)

⁶ *First Space Station Reform Order* at 10856, para. 253.

⁷ 47 C.F.R. § 25.165(e). See also *Licensing Space Stations in the Domestic Fixed-Satellite Service, Report and Order*, CC Docket No. 85-135, 58 Rad. Reg. 2d 1267, 1278 (para. 78) (rel. Aug. 29, 1985).


⁸ *Id.*

this spectrum are premature.⁹ We therefore dismiss these portions of the DIRECTV 10 and 11 applications without prejudice to refiling once these frequencies become available for assignment.

We will, however, keep on file -- with a change in nomenclature -- those portions of the DIRECTV applications that request to operate on spectrum authorized to the Spaceway satellites. While DIRECTV categorizes the DIRECTV satellites as "partial replacements" for the Spaceway satellites, DIRECTV will not be retiring the Spaceway satellites when the DIRECTV satellites are launched but, rather, will co-locate the Spaceway and DIRECTV satellites and will provide service from each. Thus, we consider the DIRECTV applications as applications for new satellites. To reflect this, we have changed the file numbers for these applications from RPL (replacement) to LOA (launch and operating authority) designations.

Accordingly, we dismiss those portions of Application File Nos. SAT-LOA-20040909-00168 and SAT-AMD-20041119-00209 (Call Sign S2640) and Application File Nos. SAT-LOA-20040909-00169 and SAT-AMD-20041122-00210 (Call Sign S2641) requesting authority to operate on the 18.3-18.365/18.53-18.57/18.735-18.8/28.35-28.36/28.525-28.6/29.25-29.26/29.425-29.5 GHz bands as premature without prejudice to refiling.

Sincerely,

for 
Thomas S. Tycz
Chief, Satellite Division
International Bureau

cc: The DIRECTV Group, Inc.
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⁹ The fact that these frequencies were still licensed to the Spaceway satellites when DIRECTV filed its requests for DIRECTV-10 and 11 does not change this result because the frequencies are no longer assigned to the Spaceway satellites. Indeed, DIRECTV had filed its modification applications for the Spaceway satellites in which it, among other things, surrendered this spectrum *before* it filed its applications for DIRECTV-10 and DIRECTV-11.